RON BENDER (SBN 143364)
J.P. FRITZ (SBN 245240)
LEVENE, NEALE, BENDER, YOO & BRILL L.L.P.
10250 Constellation Boulevard, Suite 1700
Los Angeles, California 90067
Telephone: (310) 229-1234; Facsimile: (310) 229-1244
Email: RB@LNBYB.COM; JPF@LNBYB.COM
Attorneys for Chapter 11 Debtor and Debtor in Possession

UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

In re: HOMEJOY (Assignment for the Benefit of Creditors), LLC, a California limited liability company, Debtor and Debtor in Possession.	Case No. 15−53931 MEH 11 Chapter 11 Case **DEBTOR'S NOTICE OF MOTION AND MOTION FOR APPROVAL OF SETTLEMENT AGREEMENT AND MUTUAL RELEASE AND FOR AUTHORITY TO LIMIT NOTICE OF THIS MOTION** Hearing: Date: June 1, 2017 Time: 10:30 a.m. Place: U.S. Bankruptcy Court Courtroom 3020 280 South First Street San Jose, CA 95113-3099 Judge: The Hon. M. Elaine Hammond

PLEASE TAKE NOTICE that a hearing will be held at the above-referenced date, time and location for the Court to consider approval of this motion (the "Motion") filed by Homejoy (Assignment for the Benefit of Creditors) LLC, a California limited liability company, chapter 11 debtor and debtor in possession in the above-captioned, chapter 11 bankruptcy case (the "Debtor"), for (1) approval of the Settlement Agreement and Mutual Release which is attached as Exhibit "1" to the annexed Declaration of Tim J. Cox (the "Stipulation"), and (2) authority to limit the notice of this Motion in accordance with Federal Bankruptcy Rule 2002(i). The details of the Stipulation are set forth below in the annexed Memorandum of Points and Authorities.

The Stipulation accomplishes two very important things which will assist the Debtor to bring this chapter 11 bankruptcy case to conclusion. First, the Stipulation brings an end to what has become an expensive and time-consuming investigation by the Official Committee of Unsecured Creditors (the "Committee") of transactions and business dealings involving Google Inc. Two, the Stipulation eliminates a claim of more than $18 million claim against this estate, which is a necessary component to enable the Debtor to confirm a plan of reorganization with the support of the Committee. The Debtor believes that entering into the Stipulation is in the best interests of this estate.

WHEREFORE, the Debtor respectfully requests that the Court grant this Motion and approve the Stipulation.

Dated: May 11, 2017

HOMEJOY (ASSIGNMENT FOR BENEFIT OF CREDITORS), LLC

By: */s/ Ron Bender*
RON BENDER
JOHN-PATRICK M. FRITZ
LEVENE, NEALE, BENDER, YOO & BRILL L.L.P.
Attorneys for Chapter 11 Debtor and Debtor in Possession

MEMORANDUM OF POINTS AND AUTHORITIES

I.

CASE BACKGROUND

The Debtor is the Assignee and special purpose entity formed by Sherwood Management, LLC ("Sherwood Management") for the assignment for the benefit of creditors ("ABC") of Homejoy, Inc. ("Homejoy"), which ABC went effective on August 5, 2015. Sherwood Management is wholly-owned by Sherwood Partners, Inc. ("Sherwood"). Sherwood Management is the sole member of the Debtor.

Prior to the ABC, Homejoy was primarily in the business of providing an on-line database and directory for consumers to find and hire home cleaning and janitorial services, with its office located at San Francisco, California.

Prior to the ABC, in mid-July 2015, Google Inc. entered into an agreement regarding certain Homejoy employees moving to Google Inc. (the "Google Agreement").

In response to the notice from the Assignee, on or about October 5, 2015, Google Ventures 2013, L.P. and Google Ventures 2015, L.P. (collectively "GV") filed a proof of claim in the ABC in the amount of $18,073,911.41 (the "GV Claim").

The Debtor filed a voluntary petition under chapter 11 of the Bankruptcy Code on December 15, 2015 bearing Case No. 15-53931 (the "Bankruptcy Case") in the United States Bankruptcy Court for the Northern District of California, San Jose Division (the "Bankruptcy Court"). The Committee was formed on February 1, 2016.

Subsequent to the Debtor's bankruptcy filing, the Debtor, with the consent of the Committee, obtained the approval of the Bankruptcy Court to treat timely filed claims in the ABC as if they were timely filed claims in the Bankruptcy Case to avoid claim holders from having to file duplicative claims. *See* Docket Nos. 78 and 79. GV did not file a claim in the Bankruptcy Case but as a result of the foregoing, the GV Claim is deemed to have been filed in the Bankruptcy Case.

On December 13, 2016, the Bankruptcy Court issued the *Order Authorizing Examination of and Production of Documents by Google Inc. Pursuant to Bankruptcy Rules 2004 and 7030(b)(6)* [Docket No. 144] (the "2004 Order").

On March 8, 2017, Google Inc. filed the *Motion to Quash the 2004 Order* [Docket No. 181] (the "Motion to Quash"). Following subsequent pleadings by the Committee and Google Inc. and a hearing before the Bankruptcy Court on April, 27, 2017, the Motion to Quash remains pending before the Bankruptcy Court.

Completely unrelated to the 2004 Order and the Motion to Quash, on March 1, 2017, the Debtor filed a lawsuit in the Bankruptcy Court seeking the disallowance of certain proofs of claim and for declaratory relief regarding whether a multitude of filed claims by various service provider class oriented lawsuits and by various taxing agencies (the "Lawsuit"). The Debtor filed the Lawsuit because approximately 17 months into this chapter 11 case, the Debtor concluded that a settlement or adjudication of the Lawsuit was the only way to bring this chapter 11 case to conclusion, given that the various claimants have asserted hundreds of millions of dollars of claims and there is limited funds in this estate available to pay to creditors.

In an effort to minimize the incurrence of legal fees, the Debtor and the various defendants stipulated to continue answer dates, etc. On May 1, 2017, the Debtor's bankruptcy counsel hosted a preliminary settlement conference with counsel for many of the defendants in the Lawsuit. That conference appears to have been an important step in an effort to try to bring this chapter 11 case to a swift conclusion, with the minimum amount of attorneys fees incurred. The defendants understand that there is a small amount of money in this case relative to the amount of claims asserted by the defendants, and that any consensual resolution is going to require creditors to accept significant discounts on their claim payments. While not a defendant to the Lawsuit, the Committee is nevertheless an important constituent in this case, and the Committee advised the Debtor that in order for the Committee to consider supporting the general terms of the global resolution being discussed, there had to be an elimination of the GV Claim given its magnitude relative to the balance of the general unsecured debt.

The Stipulation therefore accomplishes two very important things relative to the Debtor's efforts to confirm a fully consensual plan of reorganization in the near future. First, the Stipulation brings an end to what has become an expensive and time-consuming investigation of Google by the Committee and thereby ceases the incurrence of continued legal fees by the estate in that regard. Two, the Stipulation eliminates the GV Claim, thereby helping to pave the way for the Committee to support a global resolution of this case.

II.

SUMMARY OF THE SUBSTANTIVE TERMS OF THE STIPULATION

The following is a summary of the salient terms of the Stipulation:

Upon the entry by the Bankruptcy Court of a final and non-appealable order granting this Motion and approving the Stipulation (the "Bankruptcy Court Approval Order"), the GV Claim shall be deemed automatically withdrawn with prejudice without the need for any further order of the Bankruptcy Court or action taken by GV. In addition, Google Inc. agrees that Google Inc., GV and any of its affiliates (collectively, "Google") shall not receive any distribution from either the ABC estate or the Bankruptcy Case estate on account of the GV Claim or otherwise. (See paragraph 3 of the Stipulation).

Upon the entry of the Bankruptcy Court Approval Order, the 2004 Order and the Motion to Quash shall be deemed automatically vacated. The Debtor and the Committee shall be forever barred from conducting or seeking to conduct any further examination or any request for production of documents from Google. The Committee shall promptly file with the Bankruptcy Court a request to vacate the 2004 Order, and Google Inc. shall promptly file with the Bankruptcy Court a withdrawal of the Motion to Quash without prejudice. (See paragraph 4 of the Stipulation).

Following the execution of the Stipulation by all of the Parties, the Committee and Google Inc. shall cooperate with each other to stay the hearing on the Motion to Quash pending the Bankruptcy Court's approval of this Agreement and entry of the Bankruptcy Court Approval Order. (See paragraph 5 of the Stipulation).

Subject only to the entry of the Bankruptcy Court Approval Order by the Bankruptcy Court, the Debtor and the Committee provide a complete release to Google, etc. (See paragraph 6 of the Stipulation).

Subject only to the entry of the Bankruptcy Court Approval Order by the Bankruptcy Court, Google provides a complete release to the Debtor and the Committee, etc. (See paragraph 7 of the Stipulation).

III.

DISCUSSION

The Debtor Requests the Court to Approve the Stipulation

The authority granted the Debtor to compromise a controversy or agree to a settlement is set forth in Bankruptcy Rule 9019(a), which provides in pertinent part that "[o]n motion by the [debtor in possession] and after hearing on notice to creditors ..., the court may approve a compromise or settlement." The decision of whether a compromise should be accepted or rejected lies within the sound discretion of the Court. In re Carson, 82 B.R. 847, 852 (Bankr. S.D. Ohio 1987; In re Hydronic Enterprise, Inc., 58 B.R. 363, 365 (Bankr. D. R.I. 1986); In re

Mobile Air Drilling Co., Inc., 53 B.R. 605, 607 (Bankr. N.D. Ohio 1985); Knowles v. Putterbaugh (In re Hallet), 33 B.R. 564, 565 (Bankr. D. Me. 1983).

The Court of Appeals for the Ninth Circuit has long recognized that "[t]he bankruptcy court has great latitude in approving compromise agreements." Woodson v. Fireman's Fund Ins. Co. (In re Woodson), 839 F.2d 610, 620 (9th Cir. 1988). "The purpose of a compromise agreement is to allow the [debtor in possession] and the creditors to avoid the expenses and burdens associated with litigating sharply contested and dubious claims." Martin v. Kane (In re A & C Properties), 784 F.2d 1377, 1380-81 (9th Cir. 1986), cert. denied 479 U.S. 854 (1986). Accordingly, in approving a settlement agreement, the Court need not conduct an exhaustive investigation of the claims sought to be compromised. See United States v. Alaska National Bank (In re Walsh Constr., Inc.), 669 F.2d 1325, 1328 (9th Cir. 1982). Rather, it is sufficient that the Court find that the settlement was negotiated in good faith and is reasonable, fair, and equitable. See In re A & C Properties, supra, 784 F.2d at 1381.

The Court of Appeals for the Ninth Circuit has identified the following factors for consideration in determining whether a proposed settlement agreement is reasonable, fair, and equitable:

(a) the probability of success in the litigation;

(b) the difficulties, if any, to be encountered in the matter of collection;

(c) the complexity of the litigation involved, and the expense, inconvenience, and delay necessarily attending it; and

(d) the paramount interest of the creditors and a proper deference to their reasonable views in the premises.

In re A & C Properties, supra, 784 F.2d at 1381 (the "A & C Factors").

A court should not substitute its own judgment for the judgment of the trustee or the debtor in possession. Matter of Carla Leather, Inc., 44 B.R. 457, 465 (Bankr. S.D. N.Y. 1984). A court, in reviewing a proposed settlement, is not to decide the numerous questions of law and fact but rather to canvass the issues to determine whether the settlement falls below the lowest point in the range of reasonableness. In re W.T. Grant & Co., 699 F.2d 599, 608 (2nd Cir. 1983), *accord*, Newman v. Stein, 464 F.2d 689, 693 (2nd Cir. 1972). The court should not conduct a "mini-trial" on the merits of the underlying cause of action. Matter of Walsh Const., Inc., 669 F.2d 1325, 1328 (9th Cir. 1982); In re Blair, 538 F.2d 849 (9th Cir. 1976). It is well established that compromises are favored in bankruptcy." In re Lee Way Holding Co., 120 B.R. 881, 891 (Bankr. S.D. Ohio 1990).

The Debtor submits that the Stipulation is reasonable, fair and equitable and is in the best interest of the Debtor's bankruptcy estate. A review of the A & C Factors supports Court approval of the Stipulation as follows:

(a) The probability of success in the litigation.

There is no litigation pending, and the Debtor did not identify any known causes of action against Google in its bankruptcy schedules. The Debtor is not aware of any causes of action against Google. The Debtor understands that the Committee was attempting to proceed with the 2004 Order in an effort to obtain information to identify potential causes of action. As a result, the Debtor submits that this prong of the A & C Factors is either irrelevant or has been satisfied.

(b) The difficulties, if any, to be encountered in the matter of collection.

Since the matter of collection is not at issue here, this prong of the A & C Factors is not relevant.

(c) The complexity of the litigation involved, and the expense, inconvenience, and delay necessarily attending it.

As indicated, the only "litigation" involving Google occurring at this time is the dispute between the Committee and Google Inc. over the 2004 Order and the Motion to Quash. The bottom line is that this estate cannot afford to incur the continued legal fees attendant with the Committee's investigation without depleting the funds available to make distributions to creditors. Google Inc. has vigorously contested the Committee's standing even to proceed with the 2004 Order, and the Debtor expects that Google Inc. will vigorously litigate any claims brought against it by the estate, even if the Committee was able to prevail in the dispute regarding the 2004 Order andidentify any such claims, and even if the Committee was ultimately able to prevail in the dispute regarding the 2004 Order and identify any such claims. This is an investigation/litigation path that this estate simply cannot afford.

(d) The paramount interest of the creditors and a proper deference to their reasonable views in the premises.

The paramount interest of the creditors of this estate is served by the waiver of the GV Claim. The GV Claim is much larger than many of the other claims asserted against the estate and withdrawing it would permit larger distributions to other creditors. Waiver of the GV Claim also benefits creditors because it would obviate the need for the estate to further evaluate and potentially object to the GV Claim. The Committee supports the waiver of the GV Claim.

The Debtor Requests the Court to Authorize a Limited Notice of this Motion

Federal Bankruptcy Rule 2002(i) provides the Court with the power to order that notices required by, among others, Federal Bankruptcy Rule 2002(a)(3) (i.e., hearings on approval of compromises or settlements of a controversy) be served upon only the United States Trustee, the Committee and those parties who have filed a request for special notice. Given that (i) there are hundreds of asserted claim holders in this case and limited funds available for distribution to creditors, and (ii) the interests of the general unsecured creditors are well represented by an active Committee that has employed talented counsel and which is a party to the Stipulation, the Debtor respectfully submits that limiting notice of this Motion just to the United States Trustee, the Committee and those parties who have filed a request for special notice is warranted and appropriate.

Based upon all of the foregoing, the Debtor respectfully submits that all of the A & C Factors, to the extent applicable, have been satisfied, and that an appropriate basis exists for the Court to grant this Motion and both approve the Stipulation and approve of the Debtor's limited notice of this Motion.

Dated: May 11, 2017

HOMEJOY (ASSIGNMENT FOR BENEFIT OF CREDITORS), LLC

By: *_/s/ Ron Bender_*
RON BENDER
JOHN-PATRICK M. FRITZ
LEVENE, NEALE, BENDER, YOO & BRILL L.L.P.
Attorneys for Chapter 11 Debtor and Debtor in Possession

PROOF OF SERVICE OF DOCUMENT

I am over the age of 18 and not a party to this bankruptcy case or adversary proceeding. My business address is: 10250 Constellation Blvd., Suite 1700, Los Angeles, CA 90067

A true and correct copy of the foregoing document entitled (*specify*): **DEBTOR'S NOTICE OF MOTION AND MOTION FOR APPROVAL OF SETTLEMENT AGREEMENT AND MUTUAL RELEASE AND FOR AUTHORITY TO LIMIT NOTICE OF THIS MOTION** will be served or was served **(a)** on the judge in chambers in the form and manner required by LBR 5005-2(d); and **(b)** in the manner stated below:

1. TO BE SERVED BY THE COURT VIA NOTICE OF ELECTRONIC FILING (NEF): Pursuant to controlling General Orders and LBR, the foregoing document will be served by the court via NEF and hyperlink to the document. On (*date*) May 11, 2017, I checked the CM/ECF docket for this bankruptcy case or adversary proceeding and determined that the following persons are on the Electronic Mail Notice List to receive NEF transmission at the email addresses stated below:

- Ron Bender rb@lnbyb.com
- Kevin W. Coleman kcoleman@nutihart.com, nwhite@nutihart.com
- Gregg M. Ficks gficks@coblentzlaw.com
- John-Patrick M. Fritz JPF@LNBYB.com, JPF@ecf.inforuptcy.com
- Courtney J. Hull bk-chull@texasattorneygeneral.gov
- Teddy M. Kapur tkapur@pszjlaw.com, pjeffries@pszjlaw.com
- Bernard Kornberg bjk@severson.com
- Timothy S. Laffredi timothy.s.laffredi@usdoj.gov, patti.vargas@usdoj.gov
- Shannon Liss-Riordan sliss@llrlaw.com, jkahn@llrlaw.com
- Maxim B. Litvak mlitvak@pszjlaw.com, pjeffries@pszyjw.com
- Minnie Loo minnie.loo@usdoj.gov
- Thomas Moore Tom.Moore@usdoj.gov
- Zachary Mosner bcumosner@atg.wa.gov
- Office of the U.S. Trustee / SJ USTPRegion17.SJ.ECF@usdoj.gov, ltroxas@hotmail.com
- Kurt E. Ramlo kr@lnbyb.com
- Roya Shakoori roya@bindermalter.com
- Wendy W. Smith Wendy@bindermalter.com
- Cody James Wisniewski cody.j.wisniewski@usdoj.gov, patti.vargas@usdoj.gov

2. SERVED BY UNITED STATES MAIL: On May 11, 2017, I served the following persons and/or entities at the last known addresses in this bankruptcy case or adversary proceeding by placing a true and correct copy thereof in a sealed envelope in the United States mail, first class, postage prepaid, and addressed as follows. Listing the judge here constitutes a declaration that mailing to the judge will be completed no later than 24 hours after the document is filed.

☒ Service information continued on attached page

3. SERVED BY PERSONAL DELIVERY, OVERNIGHT MAIL, FACSIMILE TRANSMISSION OR EMAIL (state method for each person or entity served): Pursuant to F.R.Civ.P. 5 and/or controlling LBR, on May 11, 2017, I served the following persons and/or entities by personal delivery, overnight mail service, or (for those who consented in writing to such service method), by facsimile transmission and/or email as follows. Listing the judge here constitutes a declaration that personal delivery on, or overnight mail to, the judge will be completed no later than 24 hours after the document is filed.

SERVED BY OVERNIGHT MAIL
The Hon. M. Elaine Hammond
U.S. Bankruptcy Court
280 South First Street, Room 3035
San Jose, CA 95113-3099

I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct.

May 11, 2017	Lourdes Cruz	*/s/ Lourdes Cruz*
Date	*Printed Name*	*Signature*

Homejoy
File No. 7720
RSN/Committee
Served by U.S. Mail or NEF if marked with an *

Attorneys for Comptroller and TWC,
Courtney J. Hull (RSN)
Assistant Attorney General
Bankruptcy & Collections Division
P.O. Box 12548
Austin, Texas 78711-2548

JULIE M. GLOSSON (RSN) **NEF***
United States Department of Justice
Office of the U.S. Trustee
235 Pine Street, Suite 700
San Francisco, CA 94104

Recommind, Inc. (RSN) **NEF***
c/o Gregg M. Ficks, Esq.
Coblentz, Patch, Duffy & Bass, LLP
One Montgomery Street, Suite 3000
San Francisco, California 94104

Attorneys for J.C. Iglesias (RSN)
Shannon Liss-Riordan
LICHTEN & LISS-RIORDAN, P.C.
729 Boylston Street, Suite 2000
Boston, MA 02116

Attorneys for J.C. Iglesias (RSN)
Matthew Carlson
Carlson Legal Services
100 Pine Street, Suite 1250
San Francisco, CA 94111

Committee
Debra Mugnani
Monroe Personnel Svc, LLC.
220 Montgomery St., #1006
San Francisco, CA 94104

Committee
Amy Johnson
TaskUs
3233 Donald Douglas Loop S.
Santa Monica, CA 90405

Committee
Genevieve du Lac
Zerocater
115 Stillman St.
San Francisco, CA 94107

Committee
Vilma Zenelaj
c/o Byron Goldstein
Goldstein, Borgen, Dardarian & Ho
300 Lakeside Drive, Suite 1000
Oakland, CA 94612

Michael W. Malter, Wendy Watrous Smith
BINDER & MALTER, LLP (RSN)
2775 Park Avenue
Santa Clara, CA 95050

Greyhound Capital Management, LLC (RSN)
c/o Pogos Saiadian
904, 7 Pearson Square
London W1T 3BP, UK

David Hughes
64 Tamalpais Ave
San Anselmo, CA 94960

Zachary Mosner (RSN)
Assistant Attorney General
800 Fifth Avenue, Suite 2000
Seattle, WA, 98104-3188.

Committee Counsel
Pachulski Stang Ziehl & Jones LLP (RSN)
John D. Fiero, Maxim B. Litvak, Teddy M. Kapur
150 California Street, 15th Floor **NEF ***
San Francisco, California 94111

Counsel to Creditors Committee
Teddy M. Kapur (NEF*)
Pachulski, Stang Ziehl and Jones LLP
10100 Santa Monica Blvd. #1100
Los Angeles, CA 90067

NUTI HART LLP (RSN)
Kevin W. Coleman, Christopher H. Hart, Gregory C. Nuti
411 30TH Street, Suite 408
Oakland, CA 94609-3311